

U.S. Customs and Border Protection, DHS; Treasury

§ 12.3

Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381;

Section 12.4 also issued under 21 U.S.C. 381(b);

Section 12.6 also issued under 7 U.S.C. 1854; Section 12.10 also issued under 7 U.S.C. 151-162;

Section 12.15 also issued under 19 U.S.C. 1558;

Section 12.16 also issued under 7 U.S.C. 1592(b);

Sections 12.21 through 12.23 also issued under 42 U.S.C. 262;

Section 12.26 also issued under 18 U.S.C. 42;

Section 12.28 also issued under 18 U.S.C. 42, 19 U.S.C. 1527;

Section 12.34 also issued under 19 U.S.C. 1202 (additional U.S. Note to Chapter 36, HTSUS);

Section 12.37 also issued under 27 U.S.C. 203;

Section 12.39 also issued under 19 U.S.C. 1337, 1623;

Sections 12.40 and 12.41 also issued under 19 U.S.C. 1305;

Sections 12.42 through 12.44 also issued under 19 U.S.C. 1307 and Pub. L. 105-61 (111 Stat. 1272);

Sections 12.73 and 12.74 also issued under 19 U.S.C. 1484, 42 U.S.C. 7522, 7601;

Section 12.85 also issued under 19 U.S.C. 1623, 46 U.S.C. 4302, 4306, 4310;

Sections 12.95 through 12.103 also issued under 15 U.S.C. 1241-1245;

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

Section 12.104j also issued under Pub. L. 108-429, 118 Stat. 2600; 19 U.S.C. 2612;

Sections 12.105 through 12.109 also issued under 19 U.S.C. 2094;

Sections 12.110 through 12.117 also issued under 7 U.S.C. 136 *et seq.*;

Sections 12.118 through 12.127 also issued under 15 U.S.C. 2601 *et seq.*;

Section 12.140 also issued under 19 U.S.C. 1484, 2416(a), 2171;

Section 12.142 also issued under 19 U.S.C. 1484; section 3301 of Pub. L. 110-246.

Section 12.150 also issued under 19 U.S.C. 1595a and 1618; 22 U.S.C. 401.

Section 12.151 also issued under The Burmese Freedom and Democracy Act of 2003 (Pub. L. 108-61) (the "BFDA"), as amended by the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Pub. L. 110-286) (the "JADE Act"); Presidential Proclamation 8294, signed on September 26, 2008; Additional U.S. Note 4 to Chapter 71, HTSUS.

SOURCE: 28 FR 14710, Dec. 31, 1963, unless otherwise noted.

FOOD, DRUGS, AND COSMETICS, ECONOMIC POISONS, HAZARDOUS SUBSTANCES, AND DANGEROUS CAUSTIC OR CORROSIVE SUBSTANCES

§ 12.1 Cooperation with certain agencies; joint regulations.

(a) *Federal Food, Drug, and Cosmetic Act.* The importation into the United States of food, drugs, devices, and cosmetics as defined in section 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (f), (g), (h), (i)) is governed by section 801 of the Act, as amended (21 U.S.C. 381) and regulations issued under authority of section 701(b) of the Act (21 U.S.C. 371(b)) by the Secretary of Health and Human Services and the Secretary of the Treasury (21 CFR 1.83 through 1.99).

(b) *Federal Insecticide, Fungicide, and Rodenticide Act.* The importation of pesticides and devices is governed by section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136o(c)), and regulations issued under the authority of section 17(e) of that Act (7 U.S.C. 136o(e)) by the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, as set forth below (§ 12.110 *et seq.*).

(c) *Federal Hazardous Substances Act.* The importation of hazardous substances, misbranded hazardous substances, or banned hazardous substances as defined in section 2 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1261), is governed by regulations issued under the authority of sections 10(b) and 14 of the Act, as amended (15 U.S.C. 1269, 1273), by the Consumer Product Safety Commission (16 CFR 1500.265 through 1500.272).

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968, as amended by T.D. 75-194, 40 FR 32321, Aug. 1, 1975; T.D. 82-145, 47 FR 35475, Aug. 16, 1982]

§ 12.3 Release under bond; liquidated damages.

(a) *Release.* No food, drug, device, cosmetic, pesticide, hazardous substance or dangerous caustic or corrosive substance that is the subject of § 12.1 will be released except in accordance with the laws and regulations applicable to the merchandise. When any merchandise that is the subject of § 12.1 is to be

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released under bond pursuant to regulations applicable to that merchandise, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, will be required.

(b) *Bond amount.* The bond referred to in paragraph (a) of this section must be in a specific amount prescribed by the port director based on the circumstances of the particular case that is either:

(1) Equal to the domestic value (see § 162.43(a) of this chapter) of the merchandise at the time of release as if the merchandise were admissible and otherwise in compliance; or

(2) Equal to three times the value of the merchandise as provided in § 113.62(m)(1) of this chapter.

(c) *Liquidated damages.* Whenever liquidated damages arise with regard to any food, drug, device or cosmetic subject to § 12.1(a) for failure to redeliver merchandise into Customs custody or for failure to rectify any noncompliance with the applicable provisions of admission, including the failure to export or destroy the merchandise within the time period prescribed by law after the merchandise has been refused admission pursuant to the provisions of the Food, Drug and Cosmetic Act, those liquidated damages will be assessed pursuant to § 113.62(m)(1) of this chapter in the amount of the bond prescribed under paragraph (b) of this section.

[T.D. 01-26, 66 FR 16853, Mar. 28, 2001; CBP Dec. 08-46, 73 FR 71780, Nov. 25, 2008]

§ 12.4 Exportation.

The exportation of merchandise, the subject of § 12.1, refused admission into the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

§ 12.5 Shipment to other ports.

When imported merchandise, the subject of § 12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier's manifest, Customs Form 7512, in the same manner as shipments in bond.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

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IMPORTATION OF CERTAIN CHEESES

§ 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by:

(1) An affidavit, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No. 11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in Puerto Rico or areas outside the Customs territory of the United States. Proof of actual consumption shall be furnished to the appropriate Customs officer within three years after the date such cheese is entered or withdrawn from warehouse, for consumption.

(b) These affidavits shall not be required to accompany importations of cheese produced in the member states of the European Communities if such cheese is shipped directly to the United States (excluding Puerto Rico) from the country of origin on a through bill of lading.

[T.D. 75-210, 40 FR 36767, Aug. 22, 1975]

MILK AND CREAM

§ 12.7 Permits required for importation.

(a) Under the Act of February 15, 1927 (44 Stat. 1101, as amended, 21 U.S.C. 141-149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health and Human Services. Such permits become invalid at the end of one year unless applications for